

Application Serial No. 10/692,836
Reply to Office Action of August 20, 2004

Patent
Docket: CU-3412

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE:

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In re Application: Kiyoshi OOI et al.] GRP ART UNIT: 2811
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Serial No: 10/692,836] Ex.: Nguyen, Cuong Quang
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Filed: October 24, 2003]]

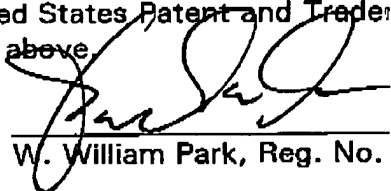
For: CAPACITOR AND MANUFACTURING METHOD THEREOF,
SEMICONDUCTOR DEVICE AND SUBSTRATE FOR A SEMICONDUCTOR
DEVICE

Certification under 37 C.F.R. § 1.8(a)

The USPTO Central Fax No. (703) 872-9306

Date of Fax Transmittal: September 14, 2004

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted to the United States Patent and Trademark Office to the fax number and on the date indicated above.


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Commissioner for Patents
P.O. Box 1450
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RESPONSE TO RESTRICTION REQUIREMENT

In the Office Action dated August 20, 2004, setting a 1-month shortened statutory period for a reply ending on September 20, 2004, the pending Claims 1-7 were restricted as follows:

- I. Claims 1-2 and 7 drawn to a semiconductor device; and
- II. Claims 3-6 drawn to a method of making a semiconductor device.

Applicants hereby elect the Group I of Claims 1-2 and 7 with traverse at least on grounds that Claim 5 should be included as a part of the Group I. As

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recited, Claim 5 is directed to a substrate, not a method.

Applicants retain the right to present the non-elected in a divisional application or to file a petition in case the present request for withdrawal of the restriction requirement is denied.

According to MPEP §803.01:

"There are two criteria for a proper requirement for restriction between patentably distinct invention:

- (A) The inventions must be **independent or distinct as claimed; and**
- (B) There must be a **serious burden** on the Examiner if restriction is required."

That is, as MPEP §803.01 further points out:

"If the **search and examination** of an entire application can be made **without serious burden**, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions."

Applicants respectfully submit that no serious burden is put on the Examiner to examine Claim 5 on the merits together with the Group 1 of Claims 1-2 and 7.

Accordingly, withdrawal of the restriction requirement is respectfully requested to the extent that Claim 5 is included with the Group 1 of claims, and election of Claims 1-2 and 7 with traverse is confirmed.

This response is considered to be responsive to all points raised in the Office Action. Should the Examiner have any remaining questions or concerns, the

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Examiner is encouraged to contact the undersigned attorney by telephone to
expeditiously resolve such concerns.

Respectfully submitted,



Dated: September 14, 2004

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